Department of Business Regulation
233 Richmond Street
Providence, RI 02903

Insurance Bulletin Number 2006-5

Property Insurance - Coastal Properties

R.I.G.L. § 27-29-4(7)(iii) and R.I.G.L.§ 27-29-4.1 prohibit cancellation or nonrenewal of insurance because of the geographic location of the property. Therefore, an insurer is prohibited from canceling or nonrenewing a property and casualty risk because of the proximity of the property to the coastline. An insurer that establishes an underwriting guideline that it will not write or will fail to renew a particular property because of its proximity to the coast is violating these statutes.

These statutes do allow insurers to establish reasonable underwriting criteria such as mitigation loss control measures (i.e., storm shutters, roof tie-downs, impact resistant glass, etc.) with regard to properties within defined limits of the coast. Such underwriting criteria should be specific as to the properties subject to the guidelines and the mitigation required by property owners to qualify for coverage. While underwriting guidelines are not routinely filed with the Department, insurers should be prepared to demonstrate to the Department how the mitigation required affects the risk assumed. Insurers must at all times remain in compliance with R.I.G.L. § 27-29-4.1 and 27-29-4(7)(iii) and should not utilize underwriting guidelines as a proxy for discrimination based on geographic location.

The Department has received inquires with regard to declinations of coastal properties for reasons other than the location of the property. Examples of such practices are declinations due to the value of properties in light of the reinsurance obtainable by the insurer and the selective geographic spread of risk. While these considerations if applied consistently across the state, are not prohibited by R.I.G.L. § 27-29-4(7)(iii) and R.I.G.L.§ 27-29-4.1, insurers should be aware that the Department will investigate such business practices to assure that they are not a pretense to avoid compliance with R.I.G.L. § 27-29-4(7)(iii) and R.I.G.L.§ 27-29-4.1.

The Department is not opposed to rate filings that provide separate rates and deductible programs depending upon the mitigation employed by the property owner. If reinsurance is available, the Department is not adverse to a rate filing including that cost in rates rather than declination of the properties based upon the increased cost of reinsurance. The Department recognizes the need for loss mitigation controls as well as instituting deductible programs where appropriate. With respect to mandatory deductibles, it is the Department's position that the trigger of deductible must be defined, at a minimum, as a storm system that has been declared to be a named storm by the National Hurricane Center. Windstorm/hail deductibles, not tied to a named storm event, may be offered in Rhode Island, during Hurricane season only, solely at the insured's option and cannot be applied on a mandatory basis unless a property owner does not mitigate in accordance with insurers' underwriting guidelines. Insurers may also offer optional buy-back coverage. All filings must provide sufficient actuarial justification for rate variances, premium offsets and premium credits for deductible programs. As always, insurers must demonstrate that rates are not excessive, inadequate or unfairly discriminatory considering the risk accepted. In addition, insurers must provide prominent and proper notice to insureds fully disclosing the deductible and any required mitigation and provide example(s) of how the deductible is calculated should the deductible be triggered. The Department also encourages producers to reach out to their customers to fully explain the coverages and exclusions and assist the insured in selecting the best product for their circumstances.

In light of the above guidelines, insurers are required to review existing programs to ascertain compliance and submit revisions where appropriate to currently approved rate, rule or policy form filings to this Department as soon as practicable, but no later than October 1, 2006. All policyholder notices must comply with Insurance Regulation 38 and 97 where applicable. Further, insurance producers and surplus line brokers should review existing surplus lines business to determine if it qualifies for the voluntary market upon policy renewal. This Bulletin does not require insurers to institute hurricane or windstorm/hail deductibles (or to require mitigation standards), rather should an insurer have such programs in effect, the provisions must comply with this Bulletin and applicable Rhode Island Laws.

Joseph Torti III
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